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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/798,798	03/11/2004	Jacob Koren	Ox238.70011USD1 DW	5638
70523	7590	01/05/2009		
Carestream Health, Inc. Patent Legal Staff 150 Verona Street Rochester, NY 14608				
EXAMINER				
ACKUN, JACOB K				
ART UNIT		PAPER NUMBER		
3728				
MAIL DATE		DELIVERY MODE		
01/05/2009		PAPER		

**Please find below and/or attached an Office communication concerning this application or proceeding.**

The time period for reply, if any, is set in the attached communication.

### Office Action Summary

**Application No.**

10/798,798

**Applicant(s)**

KOREN, JACOB

**Examiner**

Jacob K. Ackun Jr.

**Art Unit**

3728

**Period for Reply** -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 07 October 2008.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-5 and 7-46 is/are pending in the application.
- 4a) Of the above claim(s) 18-46 is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5 and 7-17 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-8508)  
Paper No(s)/Mail Date \_\_\_\_\_
- 4) ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date \_\_\_\_\_
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: \_\_\_\_\_

1. The text of those sections of Title 35, U.S. Code not included in this action can be found in a prior Office action.
2. Claims 1-5 and 7-17 are finally rejected under 35 U.S.C. 102(b or e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Haskin, Walling or Ernst, each cited by applicant, or Oliverius, Patnode et al., Canamero, Loseff or Brewill, each cited by the examiner. The rejection is set out in the last office action and is incorporated herein in its entirety by reference.
3. Applicant's arguments filed 10/07/08 have been fully considered but they are not persuasive. As disclosed in the specification of the subject application, the invention is generally in the form of a bag or pouch having openings at one or both ends thereof. The bag or pouch can house a cassette therein and the cassette can be removed therefrom. However, as noted previously by the examiner, containers per se, such as bags or pouches that have closable or non-closable openings at one end or at both ends, are conventional. As also noted before, various kinds of openings including those claimed are also well known in the art. These include openings formed by one perforation line or by a pair of perforations. Thus, even if not expressly disclosed in any of the applied references, it would have been obvious for the reasons already of record to provide any of the pouches or bags of the prior art with openings as claimed.

As noted above, containers or receptacles such as bags or pouches having openings at one end or at both ends are conventional. Applicant may ask why the examiner refers only to receptacles such as bags or pouches, when the claims recite other elements such as a cassette and image recording medium, etc. The answer is that the claims are drafted in such a fashion as to make clear that they are drawn only to the subcombination of the protective cover. No cassette, etc., is in fact claimed in combination with the claimed protective cover. Instead these other elements such as the cassette etc., are recited only as **intended uses** of the protective cover. Thus the claims read on **ANY** protective cover comprising a receptacle having all of the structural elements of the claimed receptacle so long as that receptacle is at least inherently capable of the claimed functions such as use to hold a cassette, etc. This analysis is believed to by now be very well settled. Accordingly, the claims read on many prior art receptacles comprising bags or pouches (and even read on other types of receptacles) since they are formed of material as claimed (a material that is capable of reducing the possibility of at least one contaminant contacting a cassette that one chooses to put into the receptacle), have openings as claimed (as noted above), and are at least inherently capable of other functions (such as containing a cassette), as also claimed. Alternatively, it would have been obvious for the reasons noted in the rejection to provide a prior

art bag or pouch with a known opening such as one of those claimed (perforations, folds etc.). The claims read on such a structure. This is the case with regard to the protective covers of the applied prior patents. One can put a cassette in a pouch or bag of the prior art at ones option. **Note that no cassette actually has to be disclosed in any such prior art applied in a rejection of the claims.**

4. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

5. Any inquiry concerning this communication or earlier communications from the examiner should be directed to Jacob K. Ackun Jr. whose telephone number is

(571)272-4418. The examiner can normally be reached on Monday through Friday 8.30AM-5.00PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Mickey Yu can be reached on (571)272-4562. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or

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571-272-1000.

/Jacob K. Ackun Jr./  
Primary Examiner, Art Unit 3728